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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,162	03/23/2004	Hideyuki Nishida	00862.023509	2175

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

MURALIDAR, RICHARD V

ART UNIT	PAPER NUMBER
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2838

MAIL DATE	DELIVERY MODE
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05/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,162

Applicant(s)

NISHIDA, HIDEYUKI

Examiner

Richard V. Muralidar

Art Unit

2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) 4-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the RESPONSE TO RESTRICTION REQUIREMENT received 10/13/2006. Applicant is notified of a change in examiner assigned to current application 10/806162.

Applicant's election with traverse of Invention 1 is acknowledged. The traversal is on the ground(s) that Invention 2 comprises both method and product claims, and there is no serious burden on the examiner. This is not found persuasive because there is no requirement that species claims, which are grouped together for purposes of restriction, be either all method or all products, but not a combination of both method and product claims. They may be both, as long as they are suitably related. In this case, the method and product claims are essentially the same.

Additionally, Invention 1 [classified in 320/112] is drawn to a rechargeable battery, and a switch that electrically separates the cells of said battery. Invention 2 [classified in 320/128] is drawn to a charger for charging a rechargeable battery with multiple cells; each cell able to be bypassed if a controller detects an abnormality in the cell- i.e. a multi-cell battery charger with individual cell bypass.

These are two distinct and separate inventions. The burden to the examiner is predicated upon the search required to prosecute both inventions, since each once has acquired separate status in the art, as evidenced by their separate classification. Not only would a separate search class be required, but different keyword search terms would be required as well.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwok [U.S. 6462511].

With respect to claim 1, Kwok discloses a rechargeable battery [Fig. 1, 12] which includes a plurality of connected cells [Fig. 1, cells in 14 and 16], comprising: a first electrode [Fig. 1, battery 12 positive electrode] which extracts electric power from the battery; and a second electrode [Fig. 1, battery 12 negative electrode] which is different from said first electrode and charges and discharges each of said plurality of cells.

With respect to claim 2, Kwok discloses a switch [Fig. 1, 22a, 22b] which

electrically separates said plurality of cells forming the battery.

With respect to claim 3, Kwok discloses a switch which electrically separates said plurality of cells forming the battery when the battery is attached to a charger [col. 3 lines 37-41].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard V. Muralidar whose telephone number is 571-272-8933. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karl D. Easthom can be reached on 571-272-1989. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RVM
5/12/2007


KARL EASTHOM
SUPERVISORY PATENT EXAMINER